From:	Robert.Neely
Reply To:	Robert.Neely@noaa.gov
To:	Eric Blischke/R10/USEPA/US@EPA
Subject:	Re: Fw: Portland Harbor Biological Opinion
Date:	12/20/2005 04:26 PM
Attachments:	200200761_mccormick_baxter_08-19-2002.pdf Robert.Neely.vcf

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Here's M&B.

-R

Blischke.Eric@epamail.epa.gov wrote:

>Thanks Rob. Was a similary BiOp issued for the M&B capping project?
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>Eric
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>"Robert.Neely"
><Robert.Neely@no
>aa.gov> To
>Eric Blischke/R10/USEPA/US@EPA
>12/20/2005 03:54 cc
>PM
>Subject
>Re: Fw: Portland Harbor
>Please respond Biological Opinion
>to
>Robert.Neely@noa
>a.gov
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>Here's the Gasco BiOp (attached). I've also provided some selected text
>and highlighted it below. In short, NMFS concluded that jeopardy was
>unlikely, that the incidental take would include up to 50 juvenile
>salmonids and 5 adults. Incidental take is exempt from action under ESA.
>
>I do not believe there is evidence that the incidental take was exceeded
>
>for GASCO, but I can followup with NMFS if you like. Stay tunded for
>M&B.
>
>-R
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>GASCO biop conclusion -- After reviewing the status of ESA-listed
>salmonids, and their designated critical habitat, the
>environmental baseline for the action area, the effects of the proposed
>action, and cumulative
>effects, /NMFS concludes that the action, as proposed, is not likely to
>jeopardize the continued
>existence of the ESA-listed salmonids and is not likely to destroy or
>adversely modify designated
>critical habitat/.
>
>Incidental Take -- Section 9(a)(1) of the ESA prohibits the taking of
>listed species without a specific permit or
>exemption. Protective regulations adopted pursuant to Section 4(d)
>extend the prohibition to
>threatened species. Among other things, an action that harasses, wounds,
>
>or kills an individual
>of a listed species or harms a species by altering habitat in a way that
>
>significantly impairs its
>essential behavioral patterns is a taking (50 CFR 222.102). /Incidental
>take refers to takings that
>result from, but are not the purpose of, carrying out an otherwise
>lawful activity conducted by
>the Federal agency or applicant (50 CFR 402.02). Section 7(o)(2) exempts
>
>any taking that meets
>the terms and conditions of a written incidental take statement from the
>
>taking prohibition/.
>
>Amount or Extent of Take -- Activities necessary to complete the
>proposed sediment removal action will take place in riparian
>and benthic areas within the active stream channel of Willamette River
>and the Columbia River
>when individuals of LCR Chinook salmon, UWR spring-run Chinook salmon,
>CR chum salmon,
>LCR steelhead, UWR steelhead, LCR coho salmon, UCR Chinook salmon, SR
>spring/summer
>run Chinook salmon, SR fall-run Chinook salmon, UCR steelhead, MCR
>steelhead, and SRB
>steelhead are likely to be present. Incidental take caused by adverse
>effects of those actions will
>include the following: (1) Capture of juvenile fish during work area

>isolation, some of which
>will be injured or killed; and (2) an increase in PAHs and other
>contaminants and turbidity due to
>removal of contaminated sediments that will harass or kill juvenile and
>adult fish in the action
>area, and will likely cause them to avoid the project vicinity during
>project activities.
>The NMFS anticipates that up to 50 juvenile and 5 adult individuals of
>the ESUs considered in
>the consultation will be captured, injured, or killed due to work
>necessary to isolate the in-water
>construction area. Because the individual juvenile fish that are likely
>to be captured, injured or
>killed by this action are from different ESUs that are similar to each
>other in appearance and life
>history, and to unlisted species that occupy the same area, assigning
>this take to individual ESUs
>is not possible. The adult fish could be UWR spring-run or LCR Chinook
>salmon, UWR or LCR
>steelhead or LCR coho salmon.
>Take caused by the contaminant and turbidity exposure cannot be
>accurately quantified as a
>number of fish because the relationship between contaminant
>concentrations and effects, as well
>the distribution and abundance of listed salmonids in the action area,
>is imprecise. In such
>circumstances, NMFS uses the causal link established between the
>activity and a change in
>habitat conditions (such as water quality) affecting the species to
>describe the extent of take as a
>numerical level of habitat disturbance.
>Here, the best available indicator for the extent of take is the area
>and volume of benthic habitat
>that will be modified by the action because those variables are directly
>
>proportional to harm
>attributable to this project - removal of 20,000 square feet of
>freshwater rearing and migration
>habitat containing 16,000 cy of tar material and contaminated sediment.
>In the accompanying
>Opinion, NMFS determined that the level of incidental take associated
>with this activity is not
>likely to result in jeopardy to the species. Moreover, the habitat that
>will be affected is
>extremely poor quality because of the existing level of contamination,
>and is not limited at the
>site-specific or watershed scale.
>/The estimated number of fish to be captured, injured, or killed during
>work area isolation (50
>juvenile and 5 adult individuals of the ESUs considered in the
>consultation) and the amount of
>contaminated sediment that will be removed by dredging (20,000 square
>feet of freshwater
>rearing and migration habitat containing 16,000 cy of tar material and
>contaminated sediment)
>are thresholds for reinitiating consultation. Exceeding any of these
>limits will trigger the
>reinitiation provisions of this Opinion/.
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>Blischke.Eric@epamail.epa.gov wrote:
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>>Rob, can you help me out here.
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>>Eric
>>----- Forwarded by Eric Blischke/R10/USEPA/US on 12/20/2005 01:10 PM
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>>Hey Eric -
>>Bruce Hope told me there have been two biological opinions issued by
>>NOAA for the Portland Harbor and the McCormick and Baxter site that
>>showed there was "injury" to fish. Do you know where I could get a
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>>
>copy
>
>
>>of these BiOps to take a look?
>>
>>Thanks
>>Merry Christmas to you, H, and A!
>>
>>Karla Urbanowicz
>>Water Quality Assessment Coordinator
>>Oregon Department of Environmental Quality
>>811 SW Sixth Ave.
>>Portland, OR 97204
>>503-229-6099
>>urbanowicz.karla@deq.state.or.us
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>(See attached file: NMFS_BiOP_gasco_site_08-19-2005.pdf)(See attached
>file: Robert.Neely.vcf)
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